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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,303	08/27/2003	Siew-Hong Yang-Huffman	200310177-1	5395

22879 7590 06/28/2007  
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FORT COLLINS, CO 80527-2400

EXAMINER
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SHINGLEES, KRISTIE D

ART UNIT	PAPER NUMBER
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2141

MAIL DATE	DELIVERY MODE
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06/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/649,303

Applicant(s)

YANG-HUFFMAN ET AL.

Examiner

Kristie D. Shingles

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/05 and 8/03.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

Claims 1-23 are pending.

### **Information Disclosure Statement**

I. The information disclosure statements (IDS) submitted on 4/19/2005 and 8/27/2003 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the Office. Initialed and dated copies of Applicant's IDS 1449 forms are attached to the instant Office action.

### **Drawings**

II. In compliance with 37 CFR 1.121(d) and 37 CFR 1.84(p)(5), Applicant is advised to review drawings to insure consistency and conformity between the reference numerals of the specification and the reference numerals of the drawing.

### **Claim Rejections - 35 USC § 102**

III. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**IV. Claims 1-11 and 13-23 are rejected under 35 U.S.C. 102(e) as being anticipated by See et al (US 2004/0008727).**

a. **Per claim 10, See et al** teach the method for monitoring a network of a plurality of network nodes, comprising:

- receiving network topology information (*page 5 paragraph 0053*);
- receiving a definition of a subset of network nodes from which to collect data and a definition of the type of data to collect (*pages 2-3 paragraphs 0024-0026*);
- generating collection configuration information in response to the network topology information, definition of the subset of network nodes and definition of the type of data (*pages 1-2 paragraphs 0010-0012, page 3 paragraphs 0027-0028—provision for collecting information of network resources/nodes relating different properties of the resources/nodes*); and
- collecting data from the subset of network nodes according to the collection configuration information (*page 3 paragraphs 0027-0029—provision for specifying the type of information collection from the resources/nodes*).

b. **Claims 1 and 20** contains limitations that are substantially similar to claim 10 and are therefore rejected under the same basis.

c. **Per claim 2, See et al** teach the system, as set forth in claim 1, wherein the at least one collection policy defines the subset of network nodes requiring monitoring (*Abstract, pages 1-2 paragraphs 0010-0016, page 3 paragraph 0027*).

d. **Per claim 3, See et al** teach the system, as set forth in claim 1, wherein the at least one collection policy defines the Internet Protocol of the subset of network nodes requiring monitoring (*page 3 paragraphs 0028-0029*).

e. **Claim 13** is substantially similar to claim 3 and is therefore rejected under the same basis.

f. **Per claim 4**, *See et al* teach the system, as set forth in claim 1, wherein the at least one collection policy defines a device type of the subset of network nodes requiring monitoring (*page 1 paragraph 0011, page 3 paragraph 0028*).

g. **Claims 14 and 22** are substantially similar to claim 4 and are therefore rejected under the same basis.

h. **Per claim 5**, *See et al* teach the system, as set forth in claim 1, wherein the policy server is further operable to generate collection configuration information based on at least one collection instruction, the collection instruction defines what data is to be collected from the subset of network nodes requiring monitoring (*page 3 paragraphs 0031-0034*).

i. **Claims 15, 16 and 23** are substantially similar to claim 5 and are therefore rejected under the same basis.

j. **Per claim 6**, *See et al* teach the system, as set forth in claim 1, wherein the policy server is further operable to generate collection configuration information based on at least one collection instruction, the collection instruction defines how data is to be collected from the subset of network nodes requiring monitoring (*page 2 paragraph 0012, page 3 paragraphs 0026-0027 and 0029-0032*).

k. **Per claim 7**, *See et al* teach the system, as set forth in claim 1, wherein the policy server is further operable to generate collection configuration information based on at least one collection instruction, the collection instruction defines the frequency to collect data from the subset of network nodes requiring monitoring (*page 2 paragraph 0012, page 3 paragraph 0031*).

l. **Claim 17** is substantially similar to claim 7 and is therefore rejected under the same basis.

m. **Per claim 8**, *See et al* teach the system, as set forth in claim 1, wherein the policy server is further operable to generate collection configuration information based on at least one collection instruction, the collection instruction defines when to collect data from the subset of network nodes requiring monitoring (*page 2 paragraph 0012, page 3 paragraph 0031, page 4 paragraph 0040*).

n. **Per claim 9**, *See et al* teach the system, as set forth in claim 1, wherein the policy server is further operable to generate collection configuration information based on at least one collection instruction, the collection instruction defines how to store data collected from the subset of network nodes requiring monitoring (*page 2 paragraph 0014, page 3 paragraph 0030, page 4 paragraph 0044*).

o. **Claim 18** is substantially similar to claim 9 and is therefore rejected under the same basis.

p. **Per claim 11**, *See et al* teach the system, as set forth in claim 10, wherein receiving the network topology information comprises receiving identities of the subset of network nodes requiring monitoring (*page 5 paragraph 0053*).

q. **Claim 21** is substantially similar to claim 11 and is therefore rejected under the same basis.

r. **Per claim 19**, *See et al* teach the system, as set forth in claim 10, further comprising providing the generated collection configuration information to at least one collector operable to collect the data from the subset of network nodes requiring monitoring (*page 1 paragraphs 0005-0010, page 2 paragraph 0014*).

**Claim Rejections - 35 USC § 103**

V. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

VI. **Claim 12** is rejected under 35 U.S.C. 103(a) as being unpatentable over *See et al* (US 2004/0008727) in view of *Chao et al* (US 5,964,837).

Per claim 12, *See et al* teach the method as set forth in claim 10, yet fail to explicitly teach wherein receiving the network topology information comprises receiving identities of active network nodes existing in the network. However, *Chao et al* teach receiving and monitoring active nodes in the network (*col.3 lines 62-65, col.5 lines 4-12, col.7 line 64-col.8 line 14*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *See et al* with *Chao et al* for the purpose of maintaining the status data of the networked nodes to determined which nodes are active/operational or non-operational in the network.

**Conclusion**

VII. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure: Bowcutt et al (6308328), Ordanic et al (5751964), Shamir et al (6269076), Christensen (20020040393), McKenzie et al (20020184354).

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**VIII.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharja can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Kristie Shingles**  
Examiner  
Art Unit 2141

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